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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,101	01/11/2002	Keith A. Raniere	FIRS-2994	2867

5409 7590 07/31/2007
SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

EXAMINER

LEIVA, FRANK M

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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07/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/046,101	Applicant(s) RANIERE, KEITH A.	
	Examiner Frank M. Leiva	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2007 & 16 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-80 and 93-164 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-80 and 93-164 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/21/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112 1st paragraph

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
2. Claims 22, 24, 25, 62, 64, 65, 105, 107, 136, and 138 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
 - a. Claims 22, 62, 65, 105, and 136 recite, "adapted to guarantee that the player cannot lose", yet the game is of uncertain outcome, these are contradicting terms.
 - b. Claims 24, 64, 107, and 138 recite, "guarantee that the player's initial capital must increase", yet the game is of uncertain outcome, these are contradicting terms.
 - c. Claims 25 and 108 recite, "guaranteeing the Q percent", yet the game is of uncertain outcome, these are contradicting terms.

Claim Rejections - 35 USC § 102

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3714

3. Claims 1-80, and 93-164 are rejected under 35 U.S.C. 102(b) as being anticipated by American Casino Guide 2000 Edition, published by Casino Vacations and known thereafter as "ACG2000".
4. Regarding claims 1, 29, 41, 69, 93, 112, 124, 143 and 155, ACG2000 teaches;
 - d. The use of scrip in the form of comp tickets. (p. 23:10-14).
 - e. A casino game in a casino (house), where the casino reimburses a player his winnings in cash plus comps for time played on the games, or just comps if there are no winnings. (p. 23:10-14).
5. Regarding claims 2-5, 42-45, ACG2000 teaches;
 - f. A multitude of house vendors and outside vendors. (p. 21:8-14).
 - g. The exchange of scrip for items. (p. 23:10-14).
 - h. Vendor reimbursement of the scrip at a discounted value. (p. 23:10-14).
6. Regarding claims 6, 46, 94, and 125, ACG2000 teaches;
 - i. Vendors that do not provide the same products. (p. 19:11-18 & p. 21:8-14).
7. Regarding claims 7, 47, 48, 95, and 126, ACG2000 teaches;
 - j. That the redemption rate of script to items is set for each vendor according to the houses needs, thus the house decides if the rate will be the same or not for all the vendors. (p. 20:1-33 & p. 24:5-27)..
8. Regarding claims 8, 96, and 127 ACG2000 teaches;
 - k. That the redemption rate of script to cash is set for each vendor according to the houses needs, thus the house decides if the rate will be the same or not for all the vendors. (p. 20:1-33 & p. 24:5-27).
9. Regarding claims 9, 15, 49, 55, 97, and 128 ACG2000 teaches;
 - l. Where there is a profit margin for the player by doing business with the vendors. (p. 22:6-13).

10. Regarding claims 10, 16, 50, 56, 98, and 129, ACG2000 teaches;
 - m. Where there is a profit margin for the house by doing business with the vendors. (p. 22:15-27 & p. 22:33-38).
11. Regarding claims 11, 51, 99, and 130, ACG2000 teaches;
 - n. Where there is a profit margin for the vendor by doing business with the house. For example marketing cost reductions discount on space leases etc. It is inherent in any business contract with vendors that they mutually profit from it.
12. Regarding claims 14, 17, 28, 54, 57, 68, 102, 111, 133, and 142, ACG2000 teaches;
 - o. Where there is a profit margin for the player by doing business with the vendors, and where there is a profit margin for the house by doing business with the vendors, (p. 22:6-27).
13. Regarding claims 30, 70, 113, and 144, ACG2000 teaches;
 - p. Where the scrip earnings is dependent directly from the cash spent. (p. 20:16-22).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 31-34, 71-74, 114-117 and 145-148 are rejected under 35 U.S.C. 103(a) as being unpatentable over ACG 2000 in view of Acres (US 6,319,125 B1), known thereafter as "Acres9125".

16. Regarding claims 31-34, 71-74, 114-117 and 145-148, ACG2000 fails to teach using scrip to place a bet. Acres9125 teaches;

- q. A house that comprises a casino, betting by scrip also known as free play, comp play or bonus play, and conditions to the use of the betting scrip. (Col 10:35-47).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Acres9125's "betting comp moneys" to the disclosures of ACG2000 comp ticket strategies. One would be motivated to do so because this gives the player the illusion that they have been given actual cash back and that they have actually earn money while playing thus adding to costumer satisfaction.

17. Claims 35, 75, 118, and 149 are rejected under 35 U.S.C. 103(a) as being unpatentable over ACG2000 in view of Walker et al (US 2006/0142078 A1), known thereafter as "Walker2078".

18. Regarding claims 35, 75, 118, and 149, ACG2000 fails to disclose computer casinos or virtual casinos. Walker et al 2078 teaches;

- r. Where the house comprises a computer generated casino or virtual casino. ¶ [0030, 0042, and 0045].

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Walker's virtual casino teachings to the disclosures of ACG2000 comp ticket strategies. One would be motivated to do so because this gives the player accessibility to other forms of gambling that would be more available to them thus adding to costumer satisfaction.

Art Unit: 3714

19. Claims 36, 76, 119, and 150 are rejected under 35 U.S.C. 103(a) as being unpatentable over ACG2000 in view of Walker et al (US 2002/0123376 A1), known thereafter as "Walker 3376".

20. Regarding claims 36, 76, 119, and 150, ACG2000 fail to disclose player interaction via Internet and other wireless methods of communication. Walker 3376 teaches;

s. Wherein a player interacts with the casino via Internet and wireless medias. ¶ [0031, 0039, and 0142].

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Walker's wireless communication system to the disclosures of ACG2000 comp ticket strategies. One would be motivated to do so because this gives the player accessibility to scrip remuneration and facilitate vendor interaction thus adding to costumer satisfaction.

21. Claims 12, 13, 18-21, 26, 27, 37-40, 52, 53, 58-61, 66, 67, 77-80, 100, 101, 103, 104, 109, 110, 120-123, 131, 132, 134, 135, 140, 141, 151-154, and 156-164 are rejected under 35 U.S.C. 103(a) as being unpatentable over ACG2000 in view of Walker et al (US2003/0060276 A1).

22. Regarding claims 37-40, 77-80, 120-123, 151-154, and 156-164, ACG2000 fails to disclose that casino games have an uncertain outcome; that selecting from a lottery or sport game would be an uncertain outcome; that the games could be a slot machine or a game of poker; that there might be a fee associated with the establishment; and that there might be specific criteria to satisfy such as winning a game.

23. Regarding claims 37, 77, 120, and 151, Walker 0276 teaches;

t. The game of uncertain outcome is a casino game. ¶ [0008].

Art Unit: 3714

24. Regarding claims 38-40, 78-80, 121-123, 152-154, 156-158, and 161-163 Walker 0276 teaches;

- u. Where the game of uncertain outcome includes an event selected from a lottery or sport. ¶ [0039].
- v. The uncertain outcome game is a game of chance. ¶ [0039]
- w. The game of uncertain outcome is a game of skill. ¶ [0039].

25. Regarding claims 159, Walker 0276 teaches;

- x. Where the entrance comprises the payment of a fee. ¶ [0160].

26. Regarding claims 160 and 164, Walker 0276 teaches;

- y. Where the outcome comprises a win of a game. ¶ [0160-0161]/
- z. Where the action satisfies a criterion. ¶ [0160-0161]

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Walker's teachings to the disclosures of ACG2000 comp ticket strategies. One would be motivated to do so since the invention and the disclosure are of analogous art and related to the same commercial enterprise.

27. Regarding claims 12, 13, 18-22, 24-27, 52, 53, 58-62, 64-66, 67, 100, 101, 103-105, 107-109, 110, 131, 132, 134-136, and 138-141 ACG2000 fails to teach positive sum scenarios and positive participant systems. Walker 0276 teaches;

- aa. Positive sum game or positive outcome games. ¶ [0022, 0023, 0095, 00132]
- bb. Positive participant systems. ¶ [0022, 0023, 0095, 00132].
- cc. Guaranteed outcomes. ¶ [0164, 0173, 0175, 0177].

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Walker's positive win strategies to the disclosures of

ACG2000 comp ticket strategies. One would be motivated to do so since the invention and the disclosure are of analogous art and related to the same commercial enterprise.

28. Claims 23, 63, 106, and 137 are rejected under 35 U.S.C. 103(a) as being unpatentable over ACG2000 in view of Walker 0276.

29. Walker discloses that the player can select its guaranteed payout, but does not disclose expressly that the value is 50 percent. At the time of the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to select the value of 50 because the applicant has not disclosed that the particular value has any advantage or need it for any particular purpose or solves a stated problem.

30. Therefore, it would have been prima facie obvious to modify Walker 0276 to obtain the invention as specified in claims 23, 63, 106, and 137 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Walker 0276.

Response to Arguments

31. Applicant's arguments with respect to claims 1-80 & 93-164 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 8:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

07/24/2007



Robert E Pezzato

Supervisory Patent Examiner

Art Unit 3714